

§ 327.7

insured status is set forth in § 303.248 of this chapter.

[76 FR 10706, Feb. 25, 2011]

§ 327.7 Payment of interest on assessment underpayments and overpayments.

(a) *Payment of interest*—(1) *Payment by institutions.* Each insured depository institution shall pay interest to the Corporation on any underpayment of the institution's assessment.

(2) *Payment by Corporation.* The Corporation will pay interest on any overpayment by the institution of its assessment.

(3) *Accrual of interest.* (i) Interest on an amount owed to or by the Corporation for the underpayment or overpayment of an assessment shall accrue interest at the relevant interest rate.

(ii) Interest on an amount specified in paragraph (a)(3)(i) of this section shall begin to accrue on the day following the regular payment date, as provided for in § 327.3(b)(2), for the amount so overpaid or underpaid, provided, however, that interest shall not begin to accrue on any overpayment until the day following the date such overpayment was received by the Corporation. Interest shall continue to accrue through the date on which the overpayment or underpayment (together with any interest thereon) is discharged.

(iii) The relevant interest rate shall be redetermined for each quarterly assessment interval. A quarterly assessment interval begins on the day following a regular payment date, as specified in § 327.3(b)(2), and ends on the immediately following regular payment date.

(b) *Interest rates.* (1) The relevant interest rate for a quarterly assessment interval that includes the month of January, April, July, and October, respectively, is the coupon equivalent yield of the average discount rate set on the 3-month Treasury bill at the last auction held by the United States Treasury Department during the preceding December, March, June, and September, respectively.

(2) The relevant interest rate for a quarterly assessment interval will apply to any amounts overpaid or underpaid on the payment date immediately

12 CFR Ch. III (1–14 Edition)

prior to the beginning of the quarterly assessment interval. The relevant interest rate will also apply to any amounts owed for previous overpayments or underpayments (including any interest thereon) that remain outstanding, after any adjustments to such overpayments or underpayments have been made thereon, at the end of the regular payment date immediately prior to the beginning of the quarterly assessment interval. Interest will be compounded daily.

§ 327.8 Definitions.

For the purpose of this part 327:

(a) *Deposits.* The term *deposit* has the meaning specified in section 3(l) of the Federal Deposit Insurance Act.

(b) *Quarterly report of condition.* The term *quarterly report of condition* means a report required to be filed pursuant to section 7(a)(3) of the Federal Deposit Insurance Act.

(c) *Assessment period—In general.* The term *assessment period* means a period beginning on January 1 of any calendar year and ending on March 31 of the same year, or a period beginning on April 1 of any calendar year and ending on June 30 of the same year; or a period beginning on July 1 of any calendar year and ending on September 30 of the same year; or a period beginning on October 1 of any calendar year and ending on December 31 of the same year.

(d) *Acquiring institution.* The term *acquiring institution* means an insured depository institution that assumes some or all of the deposits of another insured depository institution in a terminating transfer.

(e) *Small institution.* An insured depository institution with assets of less than \$10 billion as of December 31, 2006, and an insured branch of a foreign institution shall be classified as a small institution. If, after December 31, 2006, an institution classified as large under paragraph (f) of this section (other than an institution classified as large for purposes of § 327.9(e)) reports assets of less than \$10 billion in its quarterly reports of condition for four consecutive quarters, the FDIC will reclassify the institution as small beginning the following quarter.

(f) *Large institution.* An institution classified as large for purposes of

§ 327.9(e) or an insured depository institution with assets of \$10 billion or more as of December 31, 2006 (other than an insured branch of a foreign bank or a highly complex institution) shall be classified as a large institution. If, after December 31, 2006, an institution classified as small under paragraph (e) of this section reports assets of \$10 billion or more in its quarterly reports of condition for four consecutive quarters, the FDIC will reclassify the institution as large beginning the following quarter.

(g) *Highly complex institution.* (1) A highly complex institution is:

(i) An insured depository institution (excluding a credit card bank) that has had \$50 billion or more in total assets for at least four consecutive quarters that is controlled by a U.S. parent holding company that has had \$500 billion or more in total assets for four consecutive quarters, or controlled by one or more intermediate U.S. parent holding companies that are controlled by a U.S. holding company that has had \$500 billion or more in assets for four consecutive quarters; or

(ii) A processing bank or trust company.

(2) Control has the same meaning as in section 3(w)(5) of the FDI Act. A U.S. parent holding company is a parent holding company incorporated or organized under the laws of the United States or any State, as the term "State" is defined in section 3(a)(3) of the FDI Act. If, after December 31, 2010, an institution classified as highly complex under paragraph (g)(1)(i) of this section falls below \$50 billion in total assets in its quarterly reports of condition for four consecutive quarters, or its parent holding company or companies fall below \$500 billion in total assets for four consecutive quarters, the FDIC will reclassify the institution beginning the following quarter. If, after December 31, 2010, an institution classified as highly complex under paragraph (a)(1)(ii) of this section falls below \$10 billion in total assets for four consecutive quarters, the FDIC will reclassify the institution beginning the following quarter.

(h) *CAMELS composite and CAMELS component ratings.* The terms *CAMELS composite ratings* and *CAMELS compo-*

nent ratings shall have the same meaning as in the Uniform Financial Institutions Rating System as published by the Federal Financial Institutions Examination Council.

(i) *ROCA supervisory ratings.* ROCA supervisory ratings rate risk management, operational controls, compliance, and asset quality.

(j) *New depository institution.* A new insured depository institution is a bank or savings association that has been federally insured for less than five years as of the last day of any quarter for which it is being assessed.

(k) *Established depository institution.* An established insured depository institution is a bank or savings association that has been federally insured for at least five years as of the last day of any quarter for which it is being assessed.

(1) *Merger or consolidation involving new and established institution(s).* Subject to paragraphs (k)(2), (3), (4), and (5) of this section and § 327.9(f)(3) and (4), when an established institution merges into or consolidates with a new institution, the resulting institution is a new institution unless:

(i) The assets of the established institution, as reported in its report of condition for the quarter ending immediately before the merger, exceeded the assets of the new institution, as reported in its report of condition for the quarter ending immediately before the merger; and

(ii) Substantially all of the management of the established institution continued as management of the resulting or surviving institution.

(2) *Consolidation involving established institutions.* When established institutions consolidate, the resulting institution is an established institution.

(3) *Grandfather exception.* If a new institution merges into an established institution, and the merger agreement was entered into on or before July 11, 2006, the resulting institution shall be deemed to be an established institution for purposes of this part.

(4) *Subsidiary exception.* Subject to paragraph (k)(5) of this section, a new institution will be considered established if it is a wholly owned subsidiary of:

(i) A company that is a bank holding company under the Bank Holding Company Act of 1956 or a savings and loan holding company under the Home Owners' Loan Act, and:

(A) At least one eligible depository institution (as defined in 12 CFR 303.2(r)) that is owned by the holding company has been chartered as a bank or savings association for at least five years as of the date that the otherwise new institution was established; and

(B) The holding company has a composite rating of at least "2" for bank holding companies or an above average or "A" rating for savings and loan holding companies and at least 75 percent of its insured depository institution assets are assets of eligible depository institutions, as defined in 12 CFR 303.2(r); or

(ii) An eligible depository institution, as defined in 12 CFR 303.2(r), that has been chartered as a bank or savings association for at least five years as of the date that the otherwise new institution was established.

(5) *Effect of credit union conversion.* In determining whether an insured depository institution is new or established, the FDIC will include any period of time that the institution was a federally insured credit union.

(l) *Risk assignment.* For all small institutions and insured branches of foreign banks, risk assignment includes assignment to Risk Category I, II, III, or IV, and, within Risk Category I, assignment to an assessment rate or rates. For all large institutions and highly complex institutions, risk assignment includes assignment to an assessment rate or rates.

(m) *Unsecured debt.* For purposes of the unsecured debt adjustment as set forth in § 327.9(d)(1) and the depository institution debt adjustment as set forth in § 327.9(d)(2), unsecured debt shall include senior unsecured liabilities and subordinated debt.

(n) *Senior unsecured liability.* For purposes of the unsecured debt adjustment as set forth in § 327.9(d)(1) and the depository institution debt adjustment as set forth in § 327.9(d)(2), senior unsecured liabilities shall be the unsecured portion of other borrowed money as defined in the quarterly report of condition for the reporting period as defined

in paragraph (b) of this section, but shall not include any senior unsecured debt that the FDIC has guaranteed under the Temporary Liquidity Guarantee Program, 12 CFR part 370.

(o) *Subordinated debt.* For purposes of the unsecured debt adjustment as set forth in § 327.9(d)(1) and the depository institution debt adjustment as set forth in § 327.9(d)(2), subordinated debt shall be as defined in the quarterly report of condition for the reporting period; however, subordinated debt shall also include limited-life preferred stock as defined in the quarterly report of condition for the reporting period.

(p) *Long-term unsecured debt.* For purposes of the unsecured debt adjustment as set forth in § 327.9(d)(1) and the depository institution debt adjustment as set forth in § 327.9(d)(2), long-term unsecured debt shall be unsecured debt with at least one year remaining until maturity; however, any such debt where the holder of the debt has a redemption option that is exercisable within one year of the reporting date shall not be deemed long-term unsecured debt.

(q) *Reciprocal deposits.* Deposits that an insured depository institution receives through a deposit placement network on a reciprocal basis, such that: (1) for any deposit received, the institution (as agent for depositors) places the same amount with other insured depository institutions through the network; and (2) each member of the network sets the interest rate to be paid on the entire amount of funds it places with other network members.

(r) *Parent holding company.* A parent holding company has the same meaning as "depository institution holding company," as defined in § 3(w) of the FDI Act.

(s) *Processing bank or trust company.* A processing bank or trust company is an institution whose last three years' non-lending interest income, fiduciary revenues, and investment banking fees, combined, exceed 50 percent of total revenues (and its last three years' fiduciary revenues are non-zero), and whose total fiduciary assets total \$500 billion or more, and whose total assets for at least four consecutive quarters have been \$10 billion or more.

(t) *Credit card bank*—A credit card bank is a bank for which credit card receivables plus securitized receivables exceed 50 percent of assets plus securitized receivables.

(u) *Control*—Control has the same meaning as in section 2 of the Bank Holding Company Act of 1956, 12 U.S.C. 1841(a)(2).

[54 FR 51374, Dec. 15, 1989, as amended at 74 FR 9551, Mar. 4, 2009; 76 FR 10707, Feb. 25, 2011]

§ 327.9 Assessment pricing methods.

(a) *Small institutions*—(1) *Risk Categories*. Each small insured depository institution shall be assigned to one of the following four Risk Categories based upon the institution's capital evaluation and supervisory evaluation as defined in this section.

(i) *Risk Category I*. Small institutions in Supervisory Group A that are Well Capitalized will be assigned to Risk Category I.

(ii) *Risk Category II*. Small institutions in Supervisory Group A that are Adequately Capitalized, and small institutions in Supervisory Group B that are either Well Capitalized or Adequately Capitalized will be assigned to Risk Category II.

(iii) *Risk Category III*. Small institutions in Supervisory Groups A and B that are Undercapitalized, and small institutions in Supervisory Group C that are Well Capitalized or Adequately Capitalized will be assigned to Risk Category III.

(iv) *Risk Category IV*. Small institutions in Supervisory Group C that are Undercapitalized will be assigned to Risk Category IV.

(2) *Capital evaluations*. Each small institution will receive one of the following three capital evaluations on the basis of data reported in the institution's Consolidated Reports of Condition and Income or Thrift Financial Report (or successor report, as appropriate) dated as of March 31 for the assessment period beginning the preceding January 1; dated as of June 30 for the assessment period beginning the preceding April 1; dated as of September 30 for the assessment period beginning the preceding July 1; and dated as of December 31 for the assessment

period beginning the preceding October 1.

(i) *Well Capitalized*. A Well Capitalized institution is one that satisfies each of the following capital ratio standards: Total risk-based ratio, 10.0 percent or greater; Tier 1 risk-based ratio, 6.0 percent or greater; and Tier 1 leverage ratio, 5.0 percent or greater.

(ii) *Adequately Capitalized*. An Adequately Capitalized institution is one that does not satisfy the standards of Well Capitalized under this paragraph but satisfies each of the following capital ratio standards: Total risk-based ratio, 8.0 percent or greater; Tier 1 risk-based ratio, 4.0 percent or greater; and Tier 1 leverage ratio, 4.0 percent or greater.

(iii) *Undercapitalized*. An undercapitalized institution is one that does not qualify as either Well Capitalized or Adequately Capitalized under paragraphs (a)(2)(i) and (ii) of this section.

(3) *Supervisory evaluations*. Each small institution will be assigned to one of three Supervisory Groups based on the Corporation's consideration of supervisory evaluations provided by the institution's primary federal regulator. The supervisory evaluations include the results of examination findings by the primary federal regulator, as well as other information that the primary federal regulator determines to be relevant. In addition, the Corporation will take into consideration such other information (such as state examination findings, as appropriate) as it determines to be relevant to the institution's financial condition and the risk posed to the Deposit Insurance Fund. The three Supervisory Groups are:

(i) *Supervisory Group "A."* This Supervisory Group consists of financially sound institutions with only a few minor weaknesses;

(ii) *Supervisory Group "B."* This Supervisory Group consists of institutions that demonstrate weaknesses which, if not corrected, could result in significant deterioration of the institution and increased risk of loss to the Deposit Insurance Fund; and

(iii) *Supervisory Group "C."* This Supervisory Group consists of institutions that pose a substantial probability of loss to the Deposit Insurance